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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,705	12/22/2000	Timothy Ray Martin	KCC-15,365.1	4547

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EXAMINER

JACKSON, ANDRE L

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 01/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/748,705

Applicant(s)

MARTIN ET AL.

Examiner

Andre' L. Jackson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 11.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 1, 2003 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 1,638,073 to Van Heusen. Van Heusen discloses a fastener comprising a loop component (2) including a loop backing (4) and a plurality of loops protruding from it, with a first portion of the loop backing and a second portion of the loop backing attached to one another to form a cavity (pocket); and a hook component (3) including a hook backing (6) and a plurality of hooks (coarse filaments) protruding from it, wherein a portion of the hook component fits into the cavity of the loop component.

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Referring to claims 7-11 and 13, Van Heusen (Figs. 3, 7, 8, 9 and 12) shows several embodiments of the fastener incorporating various sizes and shapes where the angle defined by the cavity of the receiving element is about 1 to 45 degrees between the backing portions.

Claims 27 and 30-35 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 5,136,579 to Armour. Armour (Fig. 5a) discloses a multi-purpose fastening device comprising a first component (62) including a first portion (65) and a second portion (66) attached to one another to form a cavity there-between, wherein at least the first portion of the first component can be lifted and folded back by at least 90 degrees or more; and a second component (61) including a flat portion that fits into the cavity of the first component, wherein a first surface of the flat portion and the first portion of the first component can be releasably engaged to one another.

As to claims 30-35, as seen in Fig. 5a, the first component has backing strips of hook material along the lengths of the first portion and second portion. Opposite surfaces of the flat portion of the second component includes corresponding loop material, which engage the hook material of the first component to make an assembled fastening device. The cavity or space between the first and second portions is defined by an array of angles that fall within the range of 1 to 45 degrees as claimed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14-24, 26 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Heusen. Van Heusen discloses that the contact filaments (coarse hook material or pile threads) can be used interchangeably on the hook component or the loop component (col. 5, lines 4-13), thus constituting a reversal of parts/components well known within the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to modify the fastener of Van Heusen to incorporate opposite or interchangeable contact filaments to provide a garment or article providing maximum resistance to accidental disengagement.

Claims 27-40, 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Heusen in view of USPN 6,308,875 to Almo. Van Heusen discloses all of the limitations of the above claims except Van Heusen does not specifically disclose at least a part of the loop component can be lifted and folded back at least 90 degrees.

It is well documented within the Van Heusen reference that the formation of the pockets are configured and sized relative to the tongue member that is to be seated therein. It is also shown in the various embodiments that the receiving element or pocket is formed with side walls or edges sewn to the base piece or part of a fabric article along a longitudinal axis, thus forming a mouth at a transverse proximal end for receipt of the tongue.

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Almo (Figs. 4, 5 and 6A) teaches storage pack (10) comprising a front panel (12) and a back panel (14) the panels includes seams (16, 18, 19, 88, 90) defining pockets (20) with corresponding pocket openings (26) when the front panel is rotated or folded into contact with the back panel as seen in Fig. 5. Although the storage pack is shown with multiple pockets with respect to the figures above, Fig. 6B shows the utility of the storage pack having a single pocket sized and configured to receive an object(s). The seams allow the storage pack's front panel to releasably connect and disconnect from its back panel to form a re-fastenable storage pocket providing easy receipt of an object and quick release for fast access to the object when desired by a user. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to modify the fastener of Van Heusen to include the storage pack as taught by Almo to provide a new re-fastenable fastener allowing quick disengagement for access to an object(s) stored when desired by a user.

As to claims, 33-40 and 42, Van Heusen discloses that various garments or wearing apparel can be used in combination with the fastener including shirts and underwear. See column 2, line 104 and column 5, lines 50-55.

Claims 12, 25 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Heusen in view of Almo and further in view of USPN 5,775,967 to Lacoursiere et al. Van Heusen discloses an array of garments that can feature the fastener device but Van Heusen does not disclose a swimwear garment among the array of garments. Lacoursiere et al teaches a diaper swim vest-floating device. The vest comprising left and right suspender panels (16, 17) integrally formed with a front panel (15) that wraps around the lower part of a baby's body forming a pant which holds the baby in place and a support panel (11) that supports a baby's head.

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Adjustable hook and loop fastener tabs are disposed at ends of the suspender and pant panels to secure the baby in various comfort positions which can be lengthened to accommodate a growing baby when engaging in water activities. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to modify the fastener of Van Heusen to be included in the diaper swim suit as taught by Lacoursiere et al to provide an adjustable swim suit to secure a baby in various comfort positions which can be lengthened to accommodate a growing baby when engaging in water activities.

Response to Applicant's Arguments

Applicant's arguments filed in Amendment D on December 1, 2003 have been fully considered but they are not persuasive. In response to applicant's arguments presented on pages 8-11 and the amendment to claim 27 and new claims 43 & 44, the Examiner believes Van Heusen discloses a fastener similar to applicant's invention comprising a hook component or part and a separable loop component or part that is arranged to engage with one another as claimed. The Examiner believes applicant's remarks on page 9 amendment that Van Heusen does not include a loop component, is found not to be persuasive. Where there is physical identity between the subject matter of the claims and the prior art, the label given to the claimed subject matter does not distinguish the claimed invention over the prior art. In other words, the disclosure of a piece (2) having a receiving element (4) with pile threads (7), where the pile threads constitute raised loops as defined in Merriam-Webster's Dictionary. Van Heusen's fastener is equatable to applicant's loop component (22) having a cavity (24) with loops (36).

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As to claims 27, 43 and 44, #6,308,875 to Almo has been cited which is used in combination with Van Heusen and Lacoursiere et al to meet the limitations of applicant's claims.

In addition, Armour has been cited and is used alone to reject the limitations as cited in claim 27.

Accordingly, claims 1-44 are rejected as being unpatentable over the prior art made of record.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (703) 605-4276. The examiner can normally be reached on Mon. - Fri. (10 am - 6 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on (703) 308-3179. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1018.

André L. Jackson
Patent Examiner
AU 3677

ALJ
December 22, 2003


Lloyd A. Gall
Primary Examiner